

**Call to Order:**

The meeting was called to order at 7:37 p.m. Present were Chair, Joan Duff, and members Vincent Chiozzi, Linn Anderson, John McDonnell, and Mark Yanowitz, (arrived at 7:40) and associate member Jay Doherty; also present was Paul Materazzo, Director of Planning and Jacki Byerley, Planner.

It should be noted following the meeting call to order; Mr. Doherty recued himself from the 15 Elm Street public hearing and left the room.

**15 Elm Street (Century Bank):**

The Board opened the public hearing that was continued from the April 14<sup>th</sup> meeting on an application by Century Bank and Trust Company for property owned by DAZ, LLC for a Special Permit for a Major Non-Residential Project located at 15 Elm Street. Attorney Mark Johnson, representing the applicant, gave an overview of the previous Planning Board meeting, a meeting with the Design Review Board (DRB) and Zoning Board of Appeals. Peter Darlow, of Darlow Architects, representing the applicant, reviewed the changes to the plans which incorporated the DRB's recommended changes to the façade and sign. He also reviewed the variance granted by the ZBA and a change to include an ATM at the drive-up window. Tim Williams, of Allen & Major Associates, Inc., representing the applicant, reviewed the revisions to the site plan which included a 4' chain link fence around three sides of the property, a handicap ramp, landscaping, the utilities and the reconstruction of the sidewalk. Ms. Byerley reviewed her memo to the Board dated May 5<sup>th</sup> and reviewed a meeting with the Electrical Inspector regarding the lighting plan. Ms. Byerley also reviewed a map of the downtown showing pedestrian access links. Ms. Byerley recommended the 4' fence have two openings to allow pedestrian access and noted the Public Safety Officer had suggested openings in the same location. The Board reviewed and discussed pedestrian access links in the downtown area. Ms. Byerley reviewed pedestrian access links near 15 Elm Street. Mr. Yanowitz noted that he has spoken directly to a member of the Free Christian Church regarding the parking agreement with Palmers and Park Street Pub. Sheila Doherty, President of Doherty Insurance, abutter to the property, noted that the church and Park Street Pub had an agreement to use the parking lot on Sundays for services and the walkway was installed for the church parishioners. Attorney Johnson noted that Settles Glass does not have a parking agreement with the church. Attorney Johnson stated that the Bank can't agree to public access because it possesses a security problem causing customers to feel uncomfortable making after hour' deposits/withdrawals which will hurt business for the bank. Ms. Duff questioned how Century Bank was any different than Bank of America. Attorney Johnson noted that the site is a single use site on a narrow lot and from a security standpoint that poses a problem. Mr. Yanowitz noted that a 4' high chain link fence does not offer a high security. Attorney Johnson noted that the Bank does not want to encourage pedestrian access due to liability if people should get hurt on their property. Ms. Doherty noted that she is concerned that the Town of Andover would force public access on a property owner and the town would be held harmless for any liability over that forced public access. She also stated she feels the town is over stepping the line by requiring public access. Attorney Johnson reviewed a recent court case in the Town of Stow regarding a definitive subdivision condition of approval requiring public access which was appealed and overturned in the court decision. . Ms. Byerley noted that this is a special permit not a subdivision unlike the court case Attorney Johnson mentioned. Ms. Byerley noted that the Master Plan and the Special Permit requirements

**15 Elm Street (Century Bank) (cont.):**

allow the Board to consider pedestrian access/linkage. Ms. Doherty continued to express liability concerns that property owners can face if access is allowed. Gary Jafferian, property owner, noted he has owned the property for 10 years and Century Bank will make significant improvements to the site which would benefit the Town of Andover, and the liability that would be created by allowing access would out way the benefit. Ms. Byerley reviewed signage on site and stated it should be reduced to two signs. She also reviewed the Design Review Board (DRB) meeting and the changes to the plan. It should be noted that Mr. McDonnell left the meeting. Attorney Johnson reviewed the DRB letter with their recommendations to the Board dated March 27, 2011 and the ZBA meeting on March 16<sup>th</sup>. On a motion by Ms. Anderson seconded Mr. Chiozzi, the Board voted to continue the public hearing on an application by Century Bank and Trust Company for property owned by DAZ, LLC for a Special Permit for a Major Non-Residential Project located at 15 Elm Street until May 24<sup>th</sup> at 8:00 PM. **Vote:** Unanimous (4-0); Mr. Doherty returned to the meeting after the vote.

**Crystal Circle:**

Ms. Byerley reviewed her memo to the Board dated May 2, 2011. Joanne Kalogianis, representing her father who owns the property, asked the Board to find good cause that the special permit was not exercised due to the economy and to approve an extension of the special permit for another year. She also noted that the property is under agreement. With regard to Special Permit # SP97-03, a special permit for Earth movement granted in association with approval of the definitive subdivision plan for Crystal Circle; and on a motion by Ms. Anderson seconded by Mr. Yanowitz, the Board found that the delays in construction in starting work were for “good cause” and further moved the Board vote to approve an extension of the Special Permit for Earth Movement, SP07-03, for 12 months until June, 16, 2012 **Vote:** Unanimous (5-0)

**Shawsheen Restoration Project:**

Mr. Materazzo reviewed his memo to the Board dated May 3, 2011 which included a memo to the Board from Robert Douglas, Director of Conservation regarding the Conservation Commission vote and recommendation of the Balmoral Dam removal on April 12, 2011. On a motion by Ms. Anderson seconded by Mr. Doherty the Board voted to support the recommendation of the Conservation Commission to the Board of Selectmen that the Town of Andover serve as the primary applicant on state, federal and local permits necessary for the removal of the Balmoral Dam to proceed, subject to concurrent review and approvals by other applicable town and regulatory bodies. **Vote:** Unanimous (5-0)

**Wingate –Elderly Housing Overlay District:**

Mr. Materazzo reviewed his memo to the Board dated May 2, 2011 which included Andover demographics, Community Development Action Plan 2004, and a site map of the area. Steve Levin, President of Wingate noted that they have the Friars’ property under agreement and noted that there is a high demand for assisted living facilities in Andover and the surrounding communities. Mr. Levin gave an overview of a PowerPoint Presentation that included the design team for the facility, the existing building footprint, and reviewed the health care operations offered by Wingate. Mr. Materazzo stated that this could be an opportunity for the Board to

**Wingate –Elderly Housing Overlay District (cont.):**

address a need for the community which is outlined in the 2004 Action Plan and noted that the proposed plan would preserve open space along the river. Mr. Materazzo noted that this type of proposal would not impact services, he reviewed comments made at an informal IDR that was held on April 19<sup>th</sup> and suggested a task force be developed to study the concept in more detail. Ms. Duff also attended the informal IDR, and noted that the Senior Center representatives stated there was a need for this type of facility in Andover and the Fire Chief was concerned there would be an increase in demand for services. Mr. Levin noted that they have skilled nursing staff that is trained to handle most emergencies. Ms. Anderson questioned if current zoning allows for this type of use. Mr. Materazzo noted that five years ago the Board crafted a fifty-five and older zoning bylaw which was defeated at town meeting and reviewed the residents concerns at that time. Mr. Materazzo stated that this would be an overlay district not allowed in all districts. Attorney Johnson stated that the task force would look at the entire area to see what is appropriate for the area and how it would be developed. Mr. Levin reviewed the type of services that Wingate would offer which would be similar to Marland Place. Mr. Levin noted that their facility provides transportation for their residents and reviewed some compatible uses like physical therapy, and noted that he has spoken with Melmark School and they would like to be able to consolidate their group homes. Ms. Anderson questioned the current Master Plan housing component and asked the applicant if they have a copy of the Planning Board procedures for town sponsored articles. Mr. Materazzo noted that the 2004 Action Plan created by the Vision 21 committee is the blueprint to the new master plan and asked which member of the Planning Board would like to be the liaison for the task force. Peter Morris, Vice President of AVIS noted that it is a rare property and AVIS is an active stake holder and wants the property developed properly. Following a detailed discussion of the proposed overlay district, and what the next step in the process should be, the Board was in consensus that a task force should be formed to further study the area.

**Winterberry Lane:**

On a motion by Ms. Anderson seconded by Mr. Chiozzi that Board voted to reduce the performance guarantee for Winter Lane to a zero balance once the street acceptance documentation have been recorded at the Registry of Deeds. **Vote:** Unanimous (5-0)

**Minutes:**

On a motion by Ms. Anderson seconded by Mr. Doherty the Board voted to approve the March 8, 2011 minutes. **Vote:** Unanimous (5-0)

On a motion by Mr. Doherty seconded by Mr. Yanowitz the Board voted to approve the March 29, 2011 minutes. **Vote:** (4-0-1) Mr. Doherty, Mr. Yanowitz, Ms. Duff and Mr. Chiozzi voting yes and Ms. Anderson abstained from voting.

**Adjournment:** The Board voted to adjourn the meeting at 9:53 p.m.